

HOUSE BILL No. 1735

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-34.

Synopsis: Local food and beverage tax. Provides that the fiscal body of a county, city, or town may adopt an ordinance to impose a 1% food and beverage tax on retail transactions. Provides that the money collected from the tax may be used for the development and promotion of tourism or to finance capital projects.

Effective: July 1, 2003.

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January 21, 2003, read first time and referred to Committee on Ways and Means.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1735

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-9-34 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]:

4 **Chapter 34. Local Food and Beverage Tax**

5 **Sec. 1. This chapter applies to a municipality (as defined in**
6 **IC 36-1-2-11) or county that has not imposed a food and beverage**
7 **tax under this article.**

8 **Sec. 2. As used in this chapter, "beverage" includes any**
9 **alcoholic beverage.**

10 **Sec. 3. As used in this chapter, "food" includes any food**
11 **product.**

12 **Sec. 4. As used in this chapter, "fund" refers to a food and**
13 **beverage tax receipts fund established under section 13 of this**
14 **chapter.**

15 **Sec. 5. As used in this chapter, "gross retail income" has the**
16 **meaning set forth in IC 6-2.5-1-5.**

17 **Sec. 6. As used in this chapter, "person" has the meaning set**



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1 forth in IC 6-2.5-1-3.

2 Sec. 7. As used in this chapter, "retail merchant" has the
3 meaning set forth in IC 6-2.5-1-8.

4 Sec. 8. (a) The fiscal body of a municipality or county may adopt
5 an ordinance to:

6 (1) impose a food and beverage tax on transactions described
7 in section 9 of this chapter; or

8 (2) rescind a food and beverage tax imposed under this
9 chapter.

10 (b) If a fiscal body adopts an ordinance under subsection (a), it
11 shall immediately send a certified copy of the ordinance to the
12 commissioner of the department of state revenue.

13 (c) If a fiscal body adopts an ordinance under subsection (a)(1),
14 the food and beverage tax applies to transactions that occur after
15 the last day of the month that immediately follows the month in
16 which the ordinance is adopted.

17 (d) An ordinance adopted under subsection (a)(2) takes effect on
18 the first day of the month immediately following the month in
19 which the ordinance is adopted.

20 Sec. 9. (a) Except as provided in subsection (c), a tax imposed
21 under section 8 of this chapter applies to a transaction in which
22 food or beverage is furnished, prepared, or served:

23 (1) for consumption at a location, or on equipment, provided
24 by a retail merchant;

25 (2) in the municipality or county that imposed the tax; and

26 (3) by a retail merchant for consideration.

27 (b) Transactions described in subsection (a)(1) include
28 transactions in which food or beverage is:

29 (1) served by a retail merchant off the merchant's premises;

30 (2) sold by a retail merchant who ordinarily bags, wraps, or
31 packages the food or beverage for immediate consumption on
32 or near the retail merchant's premises, including food or
33 beverage sold on a "take out" or "to go" basis; or

34 (3) sold by a street vendor.

35 (c) The food and beverage tax does not apply to the furnishing,
36 preparing, or serving of any food or beverage in a transaction that
37 is exempt, or to the extent that the transaction is exempt, from the
38 state gross retail tax imposed by IC 6-2.5.

39 Sec. 10. The food and beverage tax imposed on a transaction
40 described in section 9 of this chapter equals one percent (1%) of
41 the gross retail income received by the retail merchant from the
42 transaction. For purposes of this chapter, the gross retail income

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received by the retail merchant does not include the amount of state gross retail tax imposed by IC 6-2.5.

Sec. 11. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 12. The amounts received from a tax imposed under this chapter shall be paid monthly by the treasurer of state upon warrants issued by the auditor of state to the municipality or county that imposed the tax.

Sec. 13. (a) If a tax is imposed under section 8 of this chapter, the fiscal body of the municipality or county shall establish a food and beverage tax receipts fund.

(b) The fiscal officer of the municipality or county shall deposit in the fund all amounts received under this chapter.

(c) Any money earned from the investment of money in the fund becomes a part of the fund.

(d) A municipality or county shall use money in the fund to:

- (1) fund the development of promotion and tourism; or
- (2) finance capital projects;

in the municipality or county.

Sec. 14. (a) A municipality or county that imposes a tax under section 8 of this chapter may enter into an agreement under which amounts deposited in or to be deposited in the fund are pledged to the payment of obligations issued to finance a use authorized under section 13 of this chapter.

(b) With respect to an obligation for which a pledge has been made under subsection (a), the general assembly covenants with the holders of the obligation that:

- (1) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed under this chapter; and
- (2) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed under this chapter may be used;

as long as the payment of the obligation is outstanding.

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